

ATTACHMENT D – STAFF REPORT

File Number: 921-18-000125-PLNG

Applicant: Holly D. Smith

Owner: Sheila F. Eland

Request: Install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property.

Decision: **Approved** with Conditions

Decision Date: January 10, 2019

Appeal Deadline: January 25, 2019

Location: The development site is located north of Rowena River Road, approximately 0.5 miles east of the overpass for Exit 76 on Interstate 84, approximately 6 miles east of the City Limits of Mosier, Oregon, more specifically described as:

<u>Map/Tax Lot</u>	<u>Acct. #</u>	<u>Acres</u>
2N 12E 12 BA 500	14750	1.79

Zoning: R-5, Rural Residential Zone in the General Management Area

Past Actions:

LOC-87-BP	New construction (dwelling)
SPR-94-124	20' x 25' watersport equipment storage building
SPR-97-162	2 additions onto existing residence
LOC-98-BP	2 additions onto existing residence
PLASAR-12-04-0005	29' x 12' x 23' (height) addition

Procedure Type: Administrative

Prepared By: Brent Bybee, Associate Planner

I. APPLICABLE STANDARDS

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 – Basic Provisions

Section 3.110, Expedited Review

Section 3.110.A.7. (Uses Permitted Subject to Expedited Review – Road Closure Gates)

Section 3.110.B. (Expedited Development Review Process)

Section 3.160, Rural Residential Zone

Section 3.160.G. (Property Development Standards)

B. Chapter 11 – Fire Safety Standards

Section 11.110 (Siting Standards – Locating Structures for Good Defensibility)

Section 11.120 (Defensible Space – Clearing and Maintaining a Fire Fuel Break)

Section 11.130 (Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure)

Section 11.140 (Access Standards – Providing Safe Access to and Escape From Your Home)

Section 11.150 (Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response)

C. Chapter 14 – Scenic Area Review

Section 14.100 (Provisions for all new development)

Section 14.200 (Key Viewing Areas)

Section 14.300 (Scenic Travel Corridors)

Section 14.400 (Landscape Settings)

Section 14.500 (Cultural Resources – GMA)

Section 14.600 (Natural Resources – GMA)

Section 14.700 (Recreation Resources – GMA)

Section 14.800 (Indian Tribal Treaty Rights and Consultation – GMA)

II. BACKGROUND

- A. Legal Parcel:** The subject parcel was created by Partition MIP-88-102, recorded with the Wasco County Clerk. The property is consistent with the definition of “Legal Parcel” in Section 1.090 of the NSA-LUDO because it a parcel in an existing, duly recorded major or minor land partition.
- B. Site Description:** The development site is located on a shared driveway approximately 40’ north of Rowena River Road. The subject parcel is located between Rowena River Road and the Columbia River. Rowena River Road is a paved road, but the private access which is accessed by Rowena River Road is graveled. The area north of the access road contains natural grass and vegetation, and is in private ownership. The area located south of the access road contains disturbed earth with rock and gravel mixed into the earth, and is owned by the Oregon State Parks Department. Slopes on the subject parcel are generally flat with minor variations.

- C. Surrounding Land Use:** There are four tax lots adjacent to the proposed development site. West: Kristen Jarvis. This property is used residentially, with similar topography to that of the subject parcel. It contains one dwelling and an accessory structure. East: Holly Smith. This property is also in residential use, and will be sharing the proposed gate. This property contains similar topography as the subject parcel, and has one dwelling and accessory structure. North: The Columbia River. South: Oregon State Parks. Slopes on the property to the south contain large knolls.

III. FINDINGS:

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. *Section 3.110, Expedited Review*

A. *Uses Permitted Subject to Expedited Review*

The following developments may be allowed on a legal parcel subject to the expedited development review process listed in Chapter 2, provided they comply with the resource protection and procedural guidelines listed below.

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7. *Road closure gates*

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B. *Expedited Development Review Process*

Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

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2. *Cultural*

- a. The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The cultural resources in Section 14.500 shall be used to determine if a reconnaissance and/or historic survey is required for a proposed development.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. This use falls under the definition of a road closure gate. Staff sent out a Public Notice of Administrative Action on August 23, 2018, to all affected land owners and agencies notifying them of the proposed development. On August 30, 2018, Chris Donnermeyer, Heritage Resources Program Manager with the Columbia River Gorge National Scenic Area, responded with a Cultural Resources Survey Determination. The determination stated that a cultural reconnaissance survey would be required since the development is occurring within 500 feet of a known archaeological site. Since a cultural reconnaissance survey is required, the development is now subject to a full scenic area review. All applicable criteria are addressed further on in this report. Staff finds the request complies with Section

Section 3.160 "R-R" Rural Residential Zone (GMA & SMA)

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G. Property Development Standards

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2. *General Setbacks - all structures other than approved signs and fences shall comply with the following general setback standards:*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. Since the gate is classified as being a part of the fencing, staff finds the setback criteria is not applicable to the request.

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4. *Height - Maximum height for all structures shall be thirty-five feet (35') unless further restricted in accordance with Chapter 14 – Scenic Area Review.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. The proposed height of the gate is 4'8" tall, which falls below the maximum of 35' in the criterion above. Staff finds the request complies with Criterion 4.

5. *Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.240, Flood Hazard Overlay.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. The floodplain for the Columbia River is located on the northern portion of the subject property. However, since the development will be located approximately 415' away from the floodplain, staff finds that Criterion 5 does not apply to the request.

6. *Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. The subject property is not located on a corner lot, therefore staff finds that Criterion 6 does not apply to the request.

7. *Parking - Off street parking shall be provided in accordance with Chapter 4.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. No dwellings or structures are proposed that would require an increase in off street parking, therefore staff finds that Criterion 7, and consequently Chapter 4, does not apply to the request.

B. Chapter 11 – Fire Safety Standards

Section 11.110, Siting Standards – Locating Structures for Good Defensibility
Section 11.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break
Section 11.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure
Section 11.140, Access Standards – Providing Safe Access to and Escape From Your Home
Section 11.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response)

FINDING: The Fire Safety Standards, adopted by the Wasco County Court and effective February 5, 2007, require property owners to be aware of potential fire risks in areas outside of urban areas of Wasco County, and requires compliance with siting standards, fuel break requirements, construction standards, access standards, and on-site water storage requirements.

As part of a complete application, the property owners completed a Fire Safety Standard Self-Certification Form. By signing the self-certification form, the owners have acknowledged that they understand these standards and commit to achieve compliance with them within one year of the date of approval and maintain them through the life of the development. This certification further commits all future property owners to this same requirement. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File 921-18-000125-PLNG. A **condition** of approval stating this is included in the Notice of Decision.

The subject property is located within the boundaries of Mid-Columbia Fire & Rescue (structural), and the Oregon Department of Forestry (Wildland) for fire protection.

During the application process the landowner indicated that it would be an electric gate with key code entrance. In accordance with Section 11.040 – Access Standards.(F) – Can emergency responders get through your gate, it requires that:

- Gates need to swing or glide.
- Gates need to be operable by a single person and maintained in operable condition.
- The horizontal clearance through a gate must be a minimum of 14 feet.
- Electric or locked gates must be operable or removable by emergency responders.

Through correspondence with Daniel Hammel, Division Chief for Mid-Columbia Fire and Rescue on August 28, 2018, he stated that they will “require the installation of a Knox Key Switch with mounting plate labeled fire, which will override the gates operation and default to an open position. A **condition** of approval is included in the Notice of Decision stating that prior to installation of the electric gate, the owner shall install a Knox Key Switch with a plate labeled fire, which will override the gates operation and default to an open position in case fire personnel need to respond to the property.

The site is located north of, and adjacent to, Rowena River Road. This road is paved and complies with all road requirements in Chapter 11. With the above findings and condition of approval, staff finds that the request complies with Chapter 11 – Fire Safety Standards.

C. Chapter 14 – Scenic Area Review

Section 14.100, Provisions for All New Development (GMA & SMA)

- A. *All new development, except uses allowed through the expedited review process, shall be reviewed under the applicable sections of Key Viewing Areas, Scenic Travel Corridors, Landscape Settings, Natural Resources, Cultural Resources, and Recreation Resources.*

FINDING: The review started as an Expedited Review, but upon the determination that a cultural reconnaissance survey was required, is now subject to a full review. The following applicable sections of Chapter 14 are addressed below: Section 14.200, Key Viewing Areas, Section 14.300, Scenic Travel Corridors, Section 14.400, Landscape Settings, Section 14.500, Cultural Resources – GMA, Section 14.600, Natural Resources – GMA, Section 14.700, Recreation Resources – GMA, and Section 14.800, Indian Tribal Treaty Rights and Consultation – GMA.

- B. *New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. A small amount of ground disturbance will occur to place the footings of the gate, but no leveling of the site will occur. Since the proposed development will retain existing topography and minimize grading activities to the maximum extent practicable, staff finds the request complies with Criterion B.

- C. *New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. The proposed gate is considered minor development compared to other development in the area which includes residential and accessory development. As proposed, the gate would be consistent with the height, dimensions, and overall mass of development on adjacent properties. Staff finds that the request complies with Criterion C.

- D. *Unless expressly exempted by other provisions, colors of all exterior surfaces of structures on sites not visible from Key Viewing Areas shall be earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. The applicant proposed that the gate be colored dark green, which is a dark earth tone color found in the area. Exterior colors are discussed in Section 14.200.I. where the color chosen is found to comply with the color standards for property visible from KVAs. Staff finds that the request complies with Criterion D.

- E. *Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. The gate is not an addition to an existing building. Staff finds that Criterion E does not apply to the request.

- F. Outdoor lighting shall be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. Shielding and hooding materials shall be composed of nonreflective opaque materials. There shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic.*

FINDING: No new exterior lighting is identified in this request, however the applicant and owner should be aware of the requirements for outdoor lighting and the need to hood and shield outdoor lighting so that it is directed onto the subject lot. A **condition** of approval is included in the Notice of Decision requiring outdoor lighting to be directed downward, sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways, and the Columbia River as well as preventing the lighting from being highly visible from Key Viewing Areas and from noticeably contrasting with the surrounding landscape setting. Shielding and hooding materials shall be composed of nonreflective opaque materials. There shall be no visual pollution due to the siting or brilliance, nor shall it constitute a hazard for traffic. With the condition of approval, staff finds that the request complies with Criterion F.

LANDSCAPING

- G. All ground disturbance as a result of site development shall be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation, and replacement of such vegetation that does not survive.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. A **condition** of approval is included in the Notice of Decision requiring ground disturbance to be minimized to the greatest extent possible. All ground disturbances resulting from construction of the new development must be revegetated no later than the next planting season (Oct-April) with native species. The property owners and their successors in interest shall be responsible for survival of planted vegetation and the replacement of such vegetation that does not survive. With the proposed condition of approval, the request complies with Criterion G.

- H. Except as is necessary for site development or fire safety purposes, the existing tree cover screening the development area on the subject parcel from Key Viewing Areas and trees that provide a back drop on the subject parcel which help the development area achieve visual subordination, shall be retained. Additionally, unless allowed to be removed as part of the review use, all trees and vegetation within buffer zones for wetlands, streams, lakes, ponds and riparian areas shall be retained in their natural condition. Any of these trees or other trees required to be planted as a condition of approval that die for any reason shall be replaced by the current property owner or successors in interest no later than the next planting season (Oct-April) after their death with trees of the same species or from the list in the landscape setting for the property.*

To ensure survival, new trees and replacement trees shall meet the following requirements

- 1. All trees shall be at least 4 feet tall at planting, well branched, and formed.*
- 2. Each tree shall be braced with 3 guy wires and protected from livestock and wildlife. The guy wires need to be removed after two winters.*
- 3. The trees must be irrigated until they are well established.*
- 4. Trees that die or are damaged shall be replaced with trees that meet the planting requirements above.*

FINDING: The subject lot contains scattered tree cover and landforms over the majority of the property. The proposed gate will be spanning a section of the driveway that will not require tree or vegetation removal. No trees are proposed to be removed that provide a natural backdrop to the development. Staff finds that Criterion H does not apply to the request.

Section 14.200, Key Viewing Areas

The following is required for all development that occurs on parcels/lots topographically visible from Key Viewing Areas.

- A. Each development and land use shall be visually subordinate to its setting in the GMA as seen from Key Viewing Areas. The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from Key Viewing Areas.*
 - 1. Decisions shall include written findings addressing the factors influencing potential visual impact including but not limited to:*
 - a. The number of Key Viewing Areas it is visible from;*
 - b. The distance from the building site to the Key Viewing Areas it is visible from;*
 - c. The linear distance along the Key Viewing Areas from which the building site is visible (for linear Key Viewing Areas, such as roads and the Columbia River);*
 - d. The difference in elevation between the building site and Key Viewing Areas;*
 - e. The nature and extent of topographic and vegetative back screening behind the building site as seen from Key Viewing Areas;*
 - f. The amount of area of the building site exposed to Key Viewing Areas; and*
 - g. The degree of existing vegetation providing screening.*
 - 2. Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA as seen from key viewing areas, including but not limited to:*
 - a. siting (location of development on the subject property, building orientation, and other elements);*
 - b. design (color, reflectivity, size, shape, height, architectural and design details and other elements); and*

c. *New landscaping.*

FINDING: The development site is topographically visible from five Key Viewing Areas (KVAs): Highway 30 W (Foreground & Middle-ground) in Oregon; Interstate 84 (Foreground & Middle-ground) in Oregon; Washington State Route (SR) 14 (Middle-ground & Background) in Washington; the Columbia River (Foreground, Middle-ground, & Background); and Rowena Plateau (Middle-ground). Foreground is defined as 0-0.5 miles from the proposed development. Middle-ground is defined as 0.5-3 miles from the proposed development. Background is defined as >3 miles from the proposed development.

Section 14.200 is not applicable to portions of a KVA within an Urban Exempt Area (UA) identified by the Management Plan. There are no Urban Exempt Areas identified for this request.

The development site is located at an elevation of approximately 85 feet above sea level (ASL). The primary factors in analyzing the visibility of the proposed gate include the distance from KVAs, the use of dark earthtone colors, topography, the existing backdrop of trees, and the use of nonreflective materials.

The land use designation (GMA, R-5, Rural Residential) and landscape setting (Rural Residential) in the project area requires a scenic standard of visual subordination.

Visual subordination is defined in Chapter 1 as "...the relative visibility of a structure ...does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point. As opposed to structures which are fully screened, structures which are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings..."

Highway 30 W: Highway 30 is located approximately .21 miles south of the development area, at an elevation of approximately 140-160 feet ASL. The development is at approximately 85 feet ASL. The linear distance the building site could be viewable from the KVA is approximately 1.92 miles. The proposed gate will be located along an existing driveway that serves residential development. This particular stretch of Highway 30 contains a large amount of residential development, on the north and south side of the highway, with a large number of mature trees and vegetation on the north side screening the view towards the proposed development. Mature trees and vegetation also exist between I-84, and Rowena River Road providing an extra level of vegetative screening. Existing mature trees and vegetation also exist on the subject property providing sufficient vegetative back screening. The development is minor in comparison to other development and utilizing the proposed dark earth tone colors will help blend it into its natural surroundings. Colors are addressed in criterion further on in this report.

Washington SR 14: This KVA is located at an elevation of 150-200' Above Sea Level (ASL), approximately 0.7 miles north of the development site. The linear distance the development could be visible along this KVA is 1.7 miles. The development site is not visible from the KVA due to distance, vegetation, and existing residential development blocking the view. Based on distance, existing vegetative screening, and existing residential development, and by using a dark earth tone color on the exterior of the gate, it will be visually subordinate from this KVA.

Columbia River: This KVA is located at an elevation of approximately 76' (per Corps of Engineers flowage easement between The Dalles Dam and Bonneville Dam). The development site is located approximately 0.08 miles south of the Columbia River. The development site not topographically visible, and existing on and off-site trees provide additional vegetative screening as well. Using the proposed dark earthtone

colors and low-reflectivity materials, the proposed development will be visually subordinate as seen from this KVA.

I-84: This KVA is at an elevation of approximately 100' ASL. The development site is located approximately 0.13 miles north of the KVA. The linear distance the proposed development could be visible along the KVA is approximately 2.15 miles. Existing topography and vegetation between I-84 and Rowena River Road make it difficult to see the development site. Traveling east along I-84 provides the only opportunity to see the potential development. However, existing mature trees between the development and the KVA make it difficult to see the development site. Existing vegetative back screening on the subject property, along with the use of dark earthtone colors will make the development visually subordinate from the KVA.

Rowena: This KVA contains the Rowena Point Overlook, and the trail leading up to Tom McCall Point. The Rowena Point Overlook is located at an elevation of 703' ASL. Tom McCall Point is located at an elevation of 1,723' ASL. The KVA is located to the east of the development site, approximately 1.6 miles. The development site is located in the southwest corner of the subject property. Existing mature trees on the subject property and neighboring properties to the west effectively screen the development site from the KVA. The use of dark earthtone colors will also help the development blend into its surroundings making it visually subordinate from this KVA.

The applicant submitted a color which is dark earthtone that blend with the surrounding area.

Colors are addressed in Section 14.200.I.

Reflectivity is addressed in Section 14.200.J.

Based on distance, topography, and existing vegetative screening between the new development and KVAs, with conditions proposed in Sections 14.200 I., the proposed gate will be visually subordinate as seen from KVAs. Staff finds that the request complies with Criterion A.

B. New development shall be sited to achieve visual subordination from Key Viewing Areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites or conflict with standards to protect cultural resources. In such situations, development shall comply with this standard to the maximum extent practicable. (GMA Only)

FINDING: There are no buffers on the subject lot for protection of wetlands, riparian corridors, endemic and listed plants, sensitive wildlife sites nor does the request conflict with standards to protect cultural resources. Staff identified sensitive wildlife sites within the area and contacted Jeremy Thompson, Wildlife Biologist, Oregon Department of Fish & Wildlife, The Dalles Region, to seek his input on whether the proposed use would have an impact on this wildlife habitat. On October 30, 2018, Mr. Thompson responded by e-mail and stated:

"I have no concerns with the application."

Staff also identified a sensitive plant area within 1,000 feet of the development site. Sarah Callaghan with the US Forest Service, and Sue Vrilakis with the Oregon Biodiversity Information Center were contacted for comment. On October 31, 2018, Sue Vrilakis responded stating:

“There are two plant occurrences, both general locations that are in this vicinity. One is noted as Sevenmile Hill and another as the east side of Highway 30 at Rowena Dell. There also does not appear to be any natural habitat left in this neighborhood along the river.”

With those findings, comments from Jeremy Thompson and Sue Vrilakis, and conditions of approval throughout this report, the proposed development will be visually subordinate from all KVAs. Therefore staff finds that the request complies with Criterion B.

- C. New development shall be sited to achieve visual subordination utilizing existing topography, and/or existing vegetation as needed in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas.*

FINDING: As discussed in previous findings for KVAs, existing mature trees and vegetation are effectively screening the development, and making them visually subordinate to all KVAs, effectively meeting the scenic standard. With those findings, staff finds that the request complies with Criterion C.

- D. Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from Key Viewing Areas.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. The driveway and dwelling are pre-existing, and no new driveways or structures are proposed for the development. Staff finds that Criterion D is not applicable to the request.

- E. The silhouette of new buildings shall remain below the skyline of a bluff, cliff or ridge as seen from Key Viewing Areas. A variance in the General Management Area may be granted according to Chapter 6 if application of the guidelines would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height and site to comply with the criteria have been made.*

FINDING: The only KVA that is located at a lower elevation than the development site is the Columbia River to the north. However, existing trees, topography, and residential development provide screening, and there are large landforms in the background to the south situating the proposed development below any skylines, bluffs, cliffs, or ridges. Staff finds the request complies with Criterion E

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- G. Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized according to Chapter 6 of this Ordinance. In the SMA the setbacks described above shall be 200 feet.*

FINDING: The proposed development is located approximately 420' south of the Columbia River. This is well over the required 100 foot minimum. Staff finds that the request complies with Criterion G.

- H. New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. Variances to this guideline may be authorized according to Chapter 6*

of this Ordinance if its application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be utilized.

FINDING: The average slope on the subject lot is less than 5%. This is less than the maximum 30%. Staff finds that the request complies with Criterion H.

- I. Unless expressly exempted by other provisions in this chapter, colors of all exterior surfaces of structures visible from Key Viewing Areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The Scenic Resources Implementation Handbook will include a recommended palette of colors.*

FINDING: The request is to install a 16’L x 4’8”H gate at a shared driveway entrance on the neighbor’s property. The site is visible from five Key Viewing Areas (KVA), and the colors must be dark earthtone colors. The applicant submitted a color with their application that is dark earthtone, and blends with the surrounding landscape. The following color and material are proposed:

Component	Material	Exterior Color	Manufacturer	Consistent with color requirement?
Gate	Metal	Dark Green	Behlen Country	Yes, approved

A **condition** of approval is included in the Notice of Decision approving this color. If alternate colors are proposed, they shall be submitted to and approved by the Planning Department prior to their application on the gate. With the proposed condition of approval, as amended, staff finds that the request complies with Criterion I.

- J. The exterior of buildings in the GMA and structures in the SMA on lands seen from Key Viewing Areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The Scenic Resources Implementation Handbook will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this criterion, including those where the specific application meets recommended thresholds in the “Visibility and Reflectivity Matrices” in the Implementation Handbook (once they are created). Continuous surfaces of glass unscreened from Key Viewing Areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.*

FINDING: The request is to install a 16’L x 4’8”H gate at a shared driveway entrance on the neighbor’s property. Although the gate will be composed of metal, the round tubing on the gate will not create a flat surface that would reflect noticeable glare to any KVAs. The paint will be a matte finish. The development site will also be screened from any key viewing area by existing vegetation on the subject property and surrounding lands as discussed above. Staff finds the request complies with Criterion J.

- K. The following criteria shall apply to new landscaping used to screen development from Key Viewing Areas:*

1. *New landscaping (including new earth berms) shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development visually subordinate in the GMA and meet the required scenic standard (visually subordinate or visually not evident) in the SMA from Key Viewing Areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.*

FINDING: As stated in previous findings, the proposed development is visually subordinate from all KVA's. New landscaping will not be required since other guidelines in this chapter have been sufficient to make the development visually subordinate in the GMA. The development is sited within existing trees and topography, avoiding the need for additional screening. Staff finds the request complies with Criterion 1.

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- L. *Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.*

FINDING: As stated in previous findings, the development will be visually subordinate from all KVA's, keeping the development in line with visual subordination policies, and therefore eliminating any cumulative effects from the proposed development. Staff finds the request complies with Criterion L.

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Section 14.300, Scenic Travel Corridors

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- B. *The Historic Columbia River Highway and Interstate 84 are designated as Scenic Travel Corridors. Development along these corridors shall be subject to the following standards:*
 1. *For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Scenic Travel Corridor roadway.*
 2. *All new buildings and alterations to existing buildings shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway. A variance to this setback requirement may be granted pursuant to Chapter 6. All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the Scenic Travel Corridor roadway, to the maximum extent practicable.*

FINDING: The proposed development site is located approximately 1,035 feet north of Highway 30 W and approximately 645 feet north of Interstate 84. Each setback exceeds the 100 foot minimum. Staff finds that the request complies with Section 14.300.

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Section 14.400, Landscape Settings (GMA & SMA)

Landscape settings are the combination of land uses, landforms and vegetation patterns which

distinguish an area in appearance and character from other portions of the National Scenic Area.

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H. Rural Residential Landscape Setting

GMA Only

- 1. In portions of this setting visible from Key Viewing Areas, and not exempt from visual subordination standards (see J below), the following standards shall be employed to achieve visual subordination for new development*
 - a. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.*
 - b. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.*

*(***)*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. As discussed in previous findings, no trees are required for the purpose of screening the development, therefore staff finds Criterion H is not applicable to the request.

Section 14.500, Cultural Resources – GMA

The purpose of this section is to protect and enhance cultural resources, and ensure that proposed development does not have an adverse effect on significant cultural resources.

*(***)*

B. Applicability of the Cultural Resource Reconnaissance and Historic Survey Requirements

- 1. The reconnaissance survey standards of C, Cultural Resource Reconnaissance and Historic Survey, apply until a cultural resource survey of the General Management Areas is complete.*

*(***)*

- b. A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those listed above in (a)(1) through (6). The locations of known cultural resources are shown in the cultural resource inventory.*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. A cultural resources survey determination dated August 30, 2018, was submitted to the Planning Department by Chris Donnermeyer, Heritage Resources Program Manager, Columbia River Gorge National Scenic Area. According to the determination, a cultural reconnaissance survey would be required because the proposed use would occur within 500 feet of a known archaeological site. See the findings for the cultural survey below. A historic survey would not be required however since it would not alter the exterior architectural appearance of a significant building or structure over 50 years old,

and would not compromise features of the surrounding area that are important in defining the historic or architectural character of significant buildings or structures that are 50 years old or older. Staff finds that the request complies with Criterion 1.

C. Cultural Resource Reconnaissance and Historic Surveys

1. Gorge Commission/Tribal Government Notice

a. In addition to other public notice requirements that may exist, the County shall notify the Indian tribal governments when:

(1) A reconnaissance survey is required; or

(2) Cultural resources that are prehistoric or otherwise associated with Native Americans exist in the project area.

b. Notices sent to Indian tribal governments shall include a site plan as stipulated in Section 14.040.

c. Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit written comments to the County Planning Office.

*(***)*

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. A cultural reconnaissance survey was required for the proposed development, therefore notice was required to be sent to the Indian tribal governments. Notice was sent on September 20, 2018, to the four tribal governments, allowing a 20 day comment period. No comments were received during this time. Staff finds the request complies with Criterion 1.

3. Notice of Survey Results

a. The County shall submit a copy of all cultural resource survey reports to the State Historic Preservation Office and the Indian tribal governments.

(1) Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(2) The State Historic Preservation Office and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the County Planning Office.

(3) The County shall record and address all written comments in its development review order.

FINDING: The request is to install a 16'L x 4'8"H gate at a shared driveway entrance on the neighbor's property. A cultural resources reconnaissance survey was required for the development. A completed cultural resource survey report was sent to the Wasco County Planning Department by Chris Donnermeyer on October 15, 2018. A copy of this report was sent to the tribal governments on October

25, 2018 allowing for a 30 comment period. No comments were received. Notice was also sent to the State Historic Preservation Office on November 15, 2018. Staff received a reply from Jamie French, Archaeologist with SHPO on December 12, 2018, which stated they had received the report, it was added to their GIS database, and that it was assigned SHPO Report #30091. Normally staff receives more substantial comments from the State Historic Preservation Office, and for two weeks attempted to reach out to the agency for further comment. On December 28, 2018, staff spoke with Mary Beth Grover and discussed the different options for receiving comment. She said she would speak with someone and get comment to staff the following week. Staff received a response letter on January 3, 2019. The details of the letter can be found in the next finding. With those findings, staff finds the request complies with Criterion 3.

4. Conclusion of the Cultural Resource Protection Process

(***)

- c. *The cultural resource protection process may conclude when one of the following conditions exist:*

(***)

- (2) *A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.*

FINDING: A cultural reconnaissance survey was required for the proposed development, however within Chris Donnermeyers cultural survey that was completed on October 15, 2018, did not identify any cultural resources in the project area. On January 3, 2019, staff received a letter from Dennis Griffin, Ph.D., RPA, State Archaeologist with the State Historic Preservation Office. The letter stated, “*Our office recently received a report of archaeological investigations for the project referenced above. The report has been assigned SHPO Report# 30091 and added to the SHPO Library. We have reviewed the report and concur that a good faith effort has been implemented and the project will likely have no effect on any significant archaeological objects or sites. Based on the information provided, additional archaeological research is not anticipated for this project. In the unlikely event an archaeological object or site (i.e., historic or prehistoric) is encountered during project implementation, all ground disturbance at the location should cease immediately until a professional archaeologist can be contacted to evaluate the discovery. Under state law (ORS 358.905-955 & ORS 97.740) archaeological sites, objects and human remains are protected on both public and private land in Oregon. If you have not already done so, be sure to consult with all appropriate Indian tribes regarding your proposed project*”. Notice was sent to the appropriate tribal governments on October 25, 2018, as well, allowing for a 30 day comment period. No comment was received. Since the cultural reconnaissance survey demonstrated that cultural resources did not exist in the project area, and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed, staff finds the proposed project has reached the conclusion of the cultural resource protection process, and complies with Criterion 4.

(***)

G. Discovery During Construction:

1. Halt Construction: *All construction activities within 100 feet of the discovered cultural*

resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

2. *Notification: The project applicant shall notify the County Planning Office and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.*
3. *Survey and Evaluation: The Gorge Commission will survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Office (see, ORS 358.905 to 358.955).*

FINDING: If cultural resources are found during construction, all construction within 100' of the discovered cultural resource shall cease and the resource shall remain as found; further disturbance is prohibited. In addition, the owner shall notify the Wasco County Planning Department, Gorge Commission and four Indian tribal governments within 24 hours of discovery. **Conditions** of approval are included in the Notice of Decision requiring compliance with these requirements. With these **conditions**, staff finds that the request complies with Criterion G.

H. Discovery of Human Remains

The following procedures shall be affected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

FINDING: If human remains (human skeletal remains, bones, or teeth, with or without attendant burial artifacts) are discovered during construction, all survey, excavation and construction activities shall cease, and the human remains shall not be further disturbed. The owner shall immediately notify local law enforcement officials, the County Planning Office, the Gorge Commission, and the four Indian tribal governments. **Conditions** of approval are included requiring the owner to comply with the requirements in H. With the proposed conditions staff finds that the request complies with Criterion H.

Section 14.600, Natural Resources – GMA

A. Wetlands

FINDING: The purpose of this section is to ensure there is no overall net loss of wetlands acreage and functions, and to increase the quantity and quality of wetlands. According to the National Wetland Inventory (NWI) maps and digital data from the Gorge Commission, the closest identified wetland is the Columbia River to the north, located along the northern boundary of the subject lot, approximately 505' away from the proposed development. This wetland is characterized as a shrub community, with the presence of shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent. A shrub community requires a no-disturbance buffer of 100'. The proposed buffer between the new development and the wetland is approximately 505' which exceeds the 100' requirement. Staff finds that the request complies with Criterion A.

B. Streams, Ponds, Lakes, and Riparian Areas

FINDING: The purpose of this section is to protect water quality, natural drainage, and fish and wildlife

habitat of streams, ponds, lakes, and riparian areas, and to enhance aquatic and riparian areas. According to digital data from the Gorge Commission, the Columbia River is classified as a lake wetland. Setbacks from streams, ponds, lakes, and riparian areas are dependent upon the vegetation community type, as identified in wetlands above. The vegetation community type is a shrub community which requires a 100' buffer. The proposed buffer between the development and the wetland is approximately 505' which exceeds the 100' requirement. Staff finds that the request complies with Criterion B.

C. Wildlife Habitat

FINDING: The purpose of this section is to ensure that new uses do not adversely affect sensitive wildlife areas and sites. The proposed addition will be added onto an existing home. The northern portion of the property runs along the boundary of Shallow Water Waterfowl habitat, which lies in the Columbia River approximately 505' from the proposed development. Other sensitive wildlife species were identified in the area as well which is confidential information retained by the Oregon Biodiversity Information Center. Staff contacted Jeremy Thompson, Wildlife Biologist, Oregon Department of Fish & Wildlife, The Dalles Region, to seek his input on whether the proposed use would have an impact on this wildlife habitat. On October 30, 2018, Mr. Thompson responded by e-mail and stated:

"I have no concerns with this application".

Based on the findings above, and Mr. Thompson's comments, staff finds that the request complies with Criterion C.

D. Rare Plants

FINDING: The purpose of this section is to ensure that new uses do not adversely affect plant species listed on an inventory kept by the Gorge Commission. According to digital data from the Gorge Commission, there are known sensitive plant species within 1,000' of the development. Staff contacted Sue Vrilakis, Botanist/Data Manager with the Oregon Biodiversity Information Center, and Sarah Callaghan with the US Forest Service in regards to the development. On October 31, 2018, Sue Vrilakis responded and stated:

"There are two plant occurrences, both general locations that are in this vicinity. One is noted as Sevenmile Hill and another as east side of Hwy 30 at Rowena Dell. There also does not appear to be any natural habitat left in this neighborhood along the river."

The source on Sevenmile Hill is located approximately 2.9 miles away, and the source at Rowena Dell is approximately 1.5 miles away, exceeding the 1,000' buffer. Staff finds that the request complies with Criterion D.

Section 14.700, Recreation Resources – GMA

The purpose of this section is to protect and enhance recreation resources consistent with Indian treaty rights, and to protect scenic, natural, cultural and recreation resources when providing new recreation opportunities.

FINDING: There are no recreational sites on the subject lot and no new recreational use is proposed on the property. The closest recreational sites are the Columbia River (directly north), and Mayer State Park (0.7 mile west). The development will be blocked from view by topography, trees, and existing development, resulting in the development not being visible from the river or the park. The proposed

development will have no impact on the recreational use, since the request is a gate at the end of their driveway, which has little to no impact on recreational resources. Staff finds that the request complies with Section 14.700.

Section 14.800, Indian Tribal Treaty Rights and Consultation - GMA

The purpose of this section is to ensure that the Scenic Area Act, the Management Plan, and these implementing ordinances do not affect or modify any treaty or other rights of any Indian tribe. It requires notification to the four tribal governments when new uses are proposed

FINDING: Section 14.800 provides protection of Indian Tribal Treaty Rights from new development in the National Scenic Area. Section 14.800.B.3. lists additional notice materials for projects in or providing access to the Columbia River or its fish bearing tributaries or for projects that may affect Indian treaty rights and provides 20 days for tribal governments to submit comments. The subject property has no access to the Columbia River, but pursuant to other noticing requirements, notice of the proposal was mailed or e-mailed to the four tribal governments on August 23, 2018, and a 15-day comment period was provided. No comments were received during the comment period.

Section 14.800.C. lists guidelines for tribal government consultation when those governments submit substantive written comments. No comments were received. Staff finds that the proposed development is consistent with Section 14.800.C.

Section 14.800.D. states that the treaty rights protection process may conclude if the Executive Director determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

The subject property does not provide access to the Columbia River or its fish bearing tributaries. No known treaty rights are affected by this proposal and no treaty rights concerns were raised by the tribal governments. Because the proposed use would not affect or modify treaty or other rights of any Indian tribe, the treaty rights protection process may conclude pursuant to Section 14.800.D.